

Remarks

The Office Action mailed November 28, 2008 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1, 3-5, 7-10, 13, 14, 17, and 19-28 are now pending in this application. Claims 1, 3-10, 13-17, and 19-28 stand rejected. Claims 6, 15, and 16 are cancelled herein. Claims 2, 11, 12, and 18 have been previously cancelled.

Applicant and undersigned wish to thank Examiner Champagne and Supervisory Examiner Zeender for the courtesies they extended in a telephonic interview with the undersigned and William Zychlewicz on January 22, 2009. During the interview, the § 103 rejections based on U.S. Pat. No. 7,044,373 to Garber et al. (hereinafter referred to as "Garber") and U.S. Pat. No. 6,394,290 to Walsh et al. (hereinafter referred to as "Walsh") were discussed. Further, the rejection of Claims 13-17 and 19 as "an obvious design choice" were discussed. Although no agreement with respect to the allowance of claims was reached, the Examiners indicated that the inclusion of certain recitations from some of the pending dependent claims would likely overcome the current rejections. Specifically, the Examiners indicated that the recitations relating to "printing the at least one antenna on the display stand" and/or "embedding the at least one antenna in the material forming the display stand" would likely overcome the cited references. This amendment has been made of consequence thereof.

As explained below in detail, Applicant respectfully traverses the rejections included within the present Office Action for at least the following reasons:

1. With respect to independent Claims 1 and 9: Garber does not describe or suggest a single RF antenna and/or multiple RF antennas printed on a material from which the cart is fabricated.

2. With respect to independent Claims 10 and 25: Garber does not describe or suggest a single RF antenna and/or multiple RF antennas embedded in a material from which the cart is formed.

3. With respect to dependent Claims 13-17 and 19: the Office Action acknowledges that none of the cited art describes or teaches the recitations of Claims 13-17 and 19.

However, the Office Action improperly rejects these claims as an obvious design choice, but does not provide a citation to some reference work recognized as standard in the pertinent art. Further, none of the references describe or suggest fabricating a portable display stand from material on which an RF antenna can be printed and/or into which an RF antenna can be embedded.

The rejection of Claims 1, 3-17, and 19-22 under 35 U.S.C. § 103(a) as being unpatentable over Garber in view of Walsh is respectfully traversed.

With respect to independent Claims 1, 9, and 10: Garber does not describe or suggest a single RF antenna or at least one RF antenna printed on and/or embedded in a material from which the cart is fabricated. Rather, Garber only describes a cart having antennas running the length of each cart shelf. More specifically, Col. 16, lines 19-21 of Garber states that “One [way] is to use a smart cart having *antennas running the length of each cart shelf.*” (Emphasis added.)

With respect to independent Claims 1 and 9: Applicant submits that describing a “smart cart” having antennas running the length of each cart shelf does not describe or teach a display stand having a single radio frequency antenna or multiple RF antennas printed on a material from which a display stand is fabricated. Rather, Garber describes multiple antennas each running the length of each cart shelf, and not printed on a wall of the cart.

With respect to independent Claim 10: Garber does not describe or suggest at least one RF antennas embedded within a material from which the cart is fabricated. The Office Action asserts that Claim 10 of Garber describes a shelf having an antenna. However, Claim 10 of Garber actually provides “...wherein the cart includes a shelf having an antenna associated therewith.” Claim 10, however, does not claim a cart having a single shelf having at least one *RF antenna embedded within a material* from which a portable display is fabricated. The claims of a patent must be read in light of the specification. The specification of Garber does not describe or teach a cart having a single shelf. Rather, each embodiment described in Garber includes multiple shelves. Accordingly, when Claim 10 is read in light of specification, Garber describes a cart having multiple shelves wherein each shelf has an antenna associated therewith. Accordingly, Garber, alone or in combination with the other cited references, does not describe or teach what is currently claimed in the present application.

More specifically, Garber describes using various portable and non-portable RFID devices to read information from an RFID tag on an item, specifically, library materials such as books, periodicals, and magnetic and optical media. Information about the scanned library item is displayed in on the RFID device or an associated computer such that the RFID tag replaces known barcodes associated with library items. The displayed information can be used to sorts the library items for re-shelving. Garber further describes placing sorted books onto portable carts to be transported to their appropriate locations in the library. The portable carts incorporate portable RFID devices connected to antennas running the length of each cart shelf to enable the cart to take an inventory of the items on the cart. The cart may be plugged-in to a software system and data from the cart transferred to the software system. Garber is silent regarding placement of the RFID device with respect to the cart. Moreover, Garber only describes adhering the RFID tags to the library items.

Notably, Garber does not describe or suggest a single RF antenna or at least one RF antenna printed on and/or embedded in a material from which the cart is fabricated. Rather, Garber only describes a “smart cart” having antennas running the length of each cart shelf. As is known, library carts are generally made from metal and/or wood such that the cart has the strength to transport a heavy load of books and/or other library materials. RF antennas have a limited range and/or strength that cannot transmit properly through metal and/or wood to an RFID tag. As such, Garber requires multiple antennas to communicate with the RFID tags in the books because of the construction of library carts. Garber does not address the technical limitation of the RF antennas to transmit near and/or through wood or metal. RF antennas cannot be printed on metal and/or wood and/or transmit through metal and/or wood into which they are embedded. Accordingly, Garber does not describe or suggest that at least one printed or embedded RF antenna can be used to interrogate any RFID tag within the library cart. In contrast, Applicant respectfully submits because of the construction of the library cart and the limitations of RF antennas, at least one printed or embedded antenna cannot be used to interrogate any RFID tag within a library cart. Accordingly, Applicant respectfully submits that it would not be obvious to one of ordinary skill reading Garber that at least one printed or embedded RF antenna can be used to interrogate any RFID tag within a portable display stand, as recited in the presently pending claims.

Further, Applicant respectfully submits that Walsh does not overcome the deficiencies of Garber. More specifically, Walsh is silent regarding the limitations of RF antennas. As

such, Walsh does not describe or suggest that at least one printed or embedded RF antenna can be used to interrogate any RFID tag within a display stand. Further, Applicant respectfully submits that one of ordinary skill in the art would not modify Garber with the teachings of Walsh to arrive at the presently pending claims. More specifically, Walsh is directed to a point-of-purchase display formed from corrugated paper board, and Garber is directed to a cart of sufficient strength to store and transport a plurality of books. Applicant respectfully submits that the display in Walsh could not perform the methods described in Garber because the weight of the books in Garber would collapse the display described in Walsh. Accordingly, for this reason alone, Applicant respectfully requests that the Section 103 rejections of the presently pending claims be withdrawn.

Further, Walsh describes a display stand for use in point-of-purchase display in the advertising industry. The display stand is formed from a single sheet of corrugated paper board. The display stand includes shelves for supporting the articles to be displayed that have a support and securing means which prevent the shelves as well as the display stand from bulging or sagging after repeated and extended use. The securing means includes a plastic hook affixed to the display stand with pop rivets or eyelets. As is known, pop rivets and/or eyelets are generally fabricated from metal. As described in Applicant's specification, metal may interfere with the RFID tags and/or antennas and, as such, Applicant respectfully submits that one of ordinary skill in the art at the time the invention was made would not look to a display stand that included metal components to arrive at the presently pending claims. For this reason alone, Applicant respectfully requests that the Section 103 of the presently pending claims be withdrawn.

Further, in Walsh, the shelves of the display unit are formed from an extended and foldable portion of the front panel, and a foldable portion of the back panel. As such, the front panel is necessary for forming and supporting the shelves. Accordingly, the display unit does not include an open display front and/or a removable front panel, as recited in Claims 23 and 25, discussed below. The display stand in Walsh is also provided with shelf securing means for connecting the side panels and the shelves, which provide added stability to the display stand while weight-bearing. Notably, Walsh is silent regarding an RFID tag, and RF antenna, and/or an RFID tag reader.

Claim 1 recites a system for monitoring inventory in a point of purchase display, including a portable display stand, having a display area including at least one shelf, operably

configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible . . . the display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall . . . at least one article being displayed for sale within the display area, said article operably configured to be positioned on the at least one shelf . . . the at least one article containing a radio frequency identification tag . . . a single radio frequency antenna printed on a material forming at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall . . . a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display area . . . the radio frequency identification tag reader being operably connectable to a remotely situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one article containing the radio frequency identification tag, within the display area.”

Neither Garber nor Walsh considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 1. Specifically, neither Garber nor Walsh describes or suggests a portable display stand having a single radio frequency antenna printed on a wall of the display stand and a radio frequency identification tag reader connected with the single antenna, wherein the tag reader is operably configured to interrogate any radio frequency identification tags located within the display area. Rather, in contrast to the present invention, Garber describes a portable cart that includes shelves that require an antenna be attached to each shelf to be able to interrogate articles only on that shelf, and Walsh describes a display stand for use in point-of-purchase display including shelves formed from a front panel and supported and secured using a plastic hook affixed to the display stand with metal pop rivets or eyelets.

For reasons set forth above, Applicant respectfully submits that Claim 1 is patentable over Garber in view of Walsh.

Claim 6 has been cancelled. Claims 3-5, 7, 8, 21, and 22 depend from independent Claim 1. When the recitations of Claims 3-5, 7, 8, 21, and 22 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 3-5, 7, 8, 21, and 22 likewise are patentable over Garber in view of Walsh.

Claim 9 recites a system for monitoring inventory in a point of purchase display including a portable display stand, having at least one shelf, operably configured to support an article being displayed for sale positioned thereon, the portable display stand substantially fabricated from paperboard, the display stand further comprising at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall . . . at least one article being displayed for sale, said article operably configured to be positioned on the at least one shelf, the at least one article containing a radio frequency identification tag . . . at least one radio frequency antenna printed on the paperboard of at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall . . . and a radio frequency identification tag reader, operably connected to the at least one radio frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display stand . . . the radio frequency identification tag reader being operably connectable to a remotely situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one article containing a radio frequency identification tag, within the display.”

Neither Garber nor Walsh, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 9. Specifically, neither Garber nor Walsh describes or suggests a portable display stand including at least one radio frequency antenna printed on paperboard of at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall and a radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display stand. Rather, in contrast to the present invention, Garber describes a portable cart that includes shelves that require an antenna be attached to each shelf to be able to interrogate articles only on that shelf, and Walsh describes a display stand for use in point-of-purchase display including shelves formed from a front panel and supported and secured using a plastic hook affixed to the display stand with metal pop rivets or eyelets.

For reasons set forth above, Applicant respectfully submits that Claim 9 is patentable over Garber in view of Walsh.

Claim 10 recites a system for monitoring inventory in a point of purchase display wherein the inventory includes at least one article being displayed for sale having a radio

frequency identification (RFID) tag attached thereto and wherein the system includes “a portable display stand, having at least one shelf, operably configured to support the at least one article thereon, the portable display stand configured to be collapsible, the portable display stand further comprising at least one of a bottom wall, a side wall, a back wall, a top wall, and a front wall . . . and at least one radio frequency (RF) antenna in contact with the back wall, the at least one RF antenna embedded in a material forming said portable display stand, wherein the at least one RF antenna is configured to . . . receive RF energy from an RFID reader . . . transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on any of the at least one shelf . . . receive an RF signal from the interrogated RFID tag, the received RF signal indicating a presence of the at least one article within portable the display stand.”

Neither Garber nor Walsh, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 10. Specifically, neither Garber nor Walsh describes or suggests a portable display stand including at least one radio frequency (RF) antenna in contact with a back wall, the at least one RF antenna embedded in a material forming a portable display stand, wherein the at least one RF antenna is configured to transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on any of the at least one shelf. Rather, in contrast to the present invention, Garber describes a portable cart that includes shelves that require an antenna be attached to each shelf to be able to interrogate articles only on that shelf, and Walsh describes a display stand for use in point-of-purchase display including shelves formed from a front panel and supported and secured using a plastic hook affixed to the display stand with metal pop rivets or eyelets.

For reasons set forth above, Applicant respectfully submits that Claim 10 is patentable over Garber in view of Walsh.

Claims 15 and 16 have been canceled. Claims 13, 14, 17, 19, 20, and 24 depend from independent Claim 10. When the recitations of Claims 13, 14, 17, 19, 20, and 24 are considered in combination with the recitations of Claim 10, Applicant submits that dependent Claims 13, 14, 17, 19, 20, and 24 likewise are patentable over Garber in view of Walsh.

Further, as acknowledged at page 6 of the Office Action, neither Garber nor Walsh describe the specific details and/or configurations of Claims 13-17 and 19.

Applicant respectfully traverses the Examiner's assertion at page 6 of the Office Action that, regarding Claims 13-17 and 19, "it would have been obvious to one of ordinary skill in the art to modify Garber et al., in view of Walsh et al., to incorporate the specific details/configurations described in Applicant's dependent claims as a design choice, in order to hide the antenna/wire from public reach for safety and/or aesthetic reasons." In contrast to such an assertion, Applicant respectfully submits that neither Garber nor Walsh address configurations for antennas and/or wires, as claimed by Applicant. As such, it appears that the Examiner is using Applicant's claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Such hindsight reconstruction is improper reasoning under Section 103, as discussed below.

More specifically, the Examiner's reasoning appears to be hindsight reconstruction because the library cart of Garber cannot include an antenna and/or wire configured as recited in the presently pending claims because such an antenna and/or a wire cannot be printed on and/or embedded within the metal or wood of a library cart as described in Garber. Further, Garber is silent regarding printed antennas and/or wires. Walsh is silent regarding any aspect of antennas and/or wires. Accordingly, the only teaching for embedding an antenna and/or a wire in a material and/or for printing an antenna and/or wire on the material is found in Applicant's presently pending claims. For at least this reason alone, Applicant respectfully requests that Section 103 rejections of Claims 13-17 and 19 be withdrawn.

Additionally, with respect to Claims 1, 3-17, and 19-22, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Garber nor Walsh considered alone or in combination, describe or suggest the claimed combination. Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. It appears that the present rejection reflects an impermissible attempt to use the instant claims as a guide or roadmap in formulating the rejection using impermissible hindsight reconstruction of the invention.

The United States Supreme Court has recently expressed concern regarding distortion caused by hindsight bias in an obvious analysis, and notes that factfinders should be cautious of arguments reliant upon ex post reasoning. See KSR International Co. v. Teleflex, Inc., 127 S. Ct. 1727, 82 USPQ2d at 1397. See also Ex parte Rinkevich, 2007 WL 1552288 (Bd. Pat. App. & Interf. May 29, 2007). Following the Supreme Court's guidance provided in KSR International Co. v. Teleflex, Inc. with respect to impermissible hindsight, a person of ordinary skill in the art having common sense at the time of the invention would not have reasonably looked to Walsh to solve the problem associated with interrogating RFID enabled articles located on any shelf of a display stand. Rather, such a suggestion is disclosed only in the present application.

Applicant submits that the presently claimed invention is not obvious over any combination of Garber and/or Walsh. The United States Supreme Court has recently held that obviousness rejections must be supported with "articulated reasoning with some rational underpinning to support the conclusion of obviousness." See KSR International Co. v. Teleflex, Inc., 127 S. Ct. 1727 at 1740-41, 82 USPQ2d at 1396, citing In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). The present rejection does not appear to meet this standard as it reflects no articulate reasoning why the independent or dependent claims are believed to be obvious, but rather is stated in the form of a conclusion of obviousness. Applicant accordingly requests specific explanation and articulation regarding the reasoning and rational underpinning for any obviousness rejection of the claims. It is not believed that adequate reasons why the presently claimed invention is believed to be obvious have been provided on the present record.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claims 1, 3-17, and 19-22 under 35 U.S.C. § 103(a) be withdrawn.

The rejection of Claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Garber in view of Walsh, and further in view of Weaver (U.S. Patent No. 6,813,771) is respectfully traversed.

Garber and Walsh are described above. Weaver describes a portable display and listening stand configured to display, demonstrate, and sell media such as music compact disks (CDs). A bottom compartment accommodates a CD player that is set up to drive a headphone set that is made available to a user. An open bin located above the bottom compartment holds a small quantity of CDs packaged in individual "jewel-box" cases. The display rack can be made integral or can be assembled from two or more component portions that can be separated and that can nest together for convenient storage, transportation or shipping.

Claim 23 depends from independent Claim 9, which is recited above.

None of Garber, Walsh, nor Weaver, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 9. Specifically, none of Garber, Walsh, nor Weaver describes or suggests a portable display stand including at least one radio frequency antenna printed on paperboard of at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall and a radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display stand. Rather, in contrast to the present invention, Garber describes a portable cart that includes shelves that require an antenna be attached to each shelf to be able to interrogate articles only on that shelf, Walsh describes a display stand for use in point-of-purchase display including shelves formed from a front panel and supported and secured using a plastic hook affixed to the display stand with metal pop rivets or eyelets, and Weaver describes a portable display stand that is assembled from two or more component portions, and the portions can be separated and nested together for shipping.

For reasons set forth above, Applicant respectfully submits that Claim 9 is patentable over Garber in view of Walsh and further in view of Weaver.

When the recitations of Claim 23 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claim 23 likewise is patentable over Garber in view of Walsh and further in view of Weaver.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claim 23 under 35 U.S.C. § 103(a) be withdrawn.

The rejection of Claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Garber in view of Walsh, and further in view of Palmer (U.S. Patent No. 5,530,702) is respectfully traversed.

Garber and Walsh are described above. Palmer describes a one-time use RFID tag for use in a supermarket "Checkout System." The RFID tags are attached conformably to articles held for sale in a supermarket. The purchaser loads up a shopping cart with the tagged articles to be purchased, and moves the cart into an enclosure at the point of sale which is appropriately shielded from the entrance or escape of radio-frequency emissions. Once ID codes have been successfully received for all tagged articles, the network controller transmits a signal to the RFID tags permanently disabling the RFID tags from attempting to communicate further.

Claim 24 depends from independent Claim 10, which is recited above.

None of Garber, Walsh, nor Palmer, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 10. Specifically, none of Garber, Walsh, nor Palmer describes or suggests a portable display stand including at least one radio frequency (RF) antenna in contact with a back wall, the at least one RF antenna embedded in a material forming a portable display stand, wherein the at least one RF antenna is configured to transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on any of the at least one shelf. Rather, in contrast to the present invention, Garber describes a portable cart that includes shelves that require an antenna be attached to each shelf to be able to interrogate articles only on that shelf, Walsh describes a display stand for use in point-of-purchase display including shelves formed from a front panel and supported and secured using a plastic hook affixed to the display stand with metal pop rivets or eyelets, and Palmer describes a single use RFID tagged article that is disabled after reading the tag for use in a shopping cart checkout system that identifies RFID enabled articles in a shopping cart. Notably, Palmer describes articles that could come from any shelf in the store and placed in the cart, however, Palmer does not describe nor suggest receiving an RF signal from the interrogated RFID tag indicating a presence of the at least one article being displayed for sale on the point of purchase display. The RFID tagged articles described in Palmer are in a shopping cart and not the point of purchase display.

For reasons set forth above, Applicant respectfully submits that Claim 10 is patentable over Garber in view of Walsh and further in view of Palmer.

When the recitations of Claim 24 are considered in combination with the recitations of Claim 10, Applicant submits that dependent Claim 24 likewise is patentable over Garber in view of Walsh and further in view of Palmer.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claim 24 under 35 U.S.C. § 103(a) be withdrawn.

The rejection of Claims 25 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Walsh in view of Garber, and further in view of Kuhns et al. (U.S. Patent No. 6,816,125) ("Kuhns") is respectfully traversed.

Garber and Walsh are described above. As discussed above, Applicant respectfully submits that it would not be obvious to combine the teachings of Walsh with the teachings of Garber to arrive at the presently pending claims. Further, Applicant respectfully submits that it would not be obvious to combine the teaching of Kuhns with the teachings of Garber and/or Walsh. More specifically, Applicant respectfully submits because Walsh is silent regarding RFID systems, it would not be obvious to combine the method of fabricating an article with a conductive metal pattern that may be used in an RFID system with the display of Walsh. Further, while the articles described in Kuhns may be combined into the RFID system of Garber, such a combination still does not describe or suggest Claims 25 and/or 26. Accordingly, Applicant respectfully requests that Section 103 rejection of Claims 25 and 26 be withdrawn.

Kuhns describes an article that includes a substrate having a layer of metal powder composition deposited thereon. The substrate is a paper or a compressible material. The metal powder composition includes metal particles therein for conducting electricity through a pattern formed by the layer of metal powder composition. The conductive metal pattern provides electrical circuits, loop antennae, dipole antennae, connectors, connection pads, capacitors, capacitor plates, bridges, resonant coils, vias, resistors, and/or inductive coils. As such, the article may be used as an RFID tag or an antenna. In one embodiment, the article is integrated into an RFID system for document and file management. The RFID system includes one or more antennas per shelf in various locations with respect to the shelf.

Notably, Kuhns does not describe or suggest that a single RF antenna can interrogate RFID tags on more than one shelf. As such, Kuhns does not overcome the deficiencies of Garber and/or Walsh.

Claim 25 recites a system for monitoring inventory in a point of purchase display including “a portable display stand comprising corrugated paperboard configured to be collapsible, the display stand including a plurality of shelves configured to support an article being displayed for sale thereon, the display stand further comprising a back wall opposing an open display front . . . a single radio frequency antenna embedded within a material from which said portable display stand is fabricated . . . a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting and receiving radio frequency signals between the reader and a radio frequency identification enabled article positioned on any of the plurality of shelves . . . a monitoring apparatus communicatively coupled to the radio frequency identification tag reader, the monitoring apparatus positioned remotely from the tag reader and configured to maintain a running inventory of the radio frequency identification enabled articles positioned on any of the plurality of shelves of the portable display stand.”

None of Walsh, Garber, and Kuhns, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 25. Specifically, none of Walsh, Garber, and Kuhns, considered alone or in combination, describe or suggest a portable display stand that includes a back wall opposing an open display front, a single radio frequency antenna embedded within a material from which the portable display stand is fabricated, and a radio frequency identification tag reader operably connected to the radio frequency antenna for transmitting and receiving radio frequency signals between the reader and a radio frequency identification enabled article positioned on any of the plurality of shelves. Rather, in contrast to the present invention, Garber describes a portable cart that includes shelves that require an antenna be attached to each shelf to be able to interrogate articles only on that shelf, and Walsh describes a display stand for use in point-of-purchase display including shelves formed from a front panel and supported and secured using a plastic hook affixed to the display stand with metal pop rivets or eyelets. Kuhns describes an article that includes a conductive metal pattern thereon, wherein the article can be used in an RFID system.

Moreover, none of Walsh, Garber, and Kuhns, considered alone or in combination, describe or suggest a monitoring apparatus communicatively coupled to the radio frequency identification tag reader wherein the monitoring apparatus positioned remotely from the tag reader and configured to maintain a running inventory of the radio frequency identification enabled articles positioned on any of the plurality of shelves of the portable display stand. Rather, in contrast to the present invention, Garber describes a portable cart that includes shelves that require an antenna be attached to each shelf to be able to interrogate articles only on that shelf, Walsh describes a display stand for use in point-of-purchase display including shelves formed from a front panel and supported and secured using a plastic hook affixed to the display stand with metal pop rivets or eyelets, and Kuhns describes that one or more antennas per shelf to interrogate RFID tags on the shelf.

The Office Action asserts at page 10 that Kuhns describes at Col. 11, lines 24-38 a display stand having a back wall comprising a single radio frequency antenna for transmitting and receiving radio frequency signals between the reader and a radio frequency identification enabled article positioned on any of the plurality of shelves. Applicant traverses this assertion. Applicant submits that Col. 11, lines 24-38 actually provides in relevant part as follows:

Each of the smart storage areas 32 of system 30 may be equipped with one or more antennas for interrogating the files to aid in determining which files are located at each of the storage areas. For example, one or more antennas are positioned within open shelves 32A to create an electromagnetic field for communicating with the RFID tags associated with the files. Similarly, antennas may be located within cabinet 32B, vertical file separator 32C, smart cart 32D, desktop reader 32E, and the like. *The antennas may be positioned in various ways, such as on top or bottom of each shelf, at the back of the shelves, or supported vertically, interspersed among the files.* The antennas can be retrofitted to existing shelves or built into a shelf and purchased as a unit. For example, an antenna on a paper substrate can be incorporated into a shelf during the manufacturing of the shelf, by treating the paper substrate with a saturant and then laminating the substrate to other materials used in the construction of the shelf. (Emphasis added.)

In other words, Kuhns describes a smart storage area that includes an open shelving unit that includes multiple shelves wherein one or more antennas are positioned in various areas on each shelf. Notably, Kuhns does not describe or suggest a single RF antenna used

to interrogate RFID tags on more than one shelf. As such, Kuhns does not overcome the deficiencies of Garber and/or Walsh.

For reasons set forth above, Applicant respectfully submits that Claim 25 is patentable over Walsh in view of Garber, and further in view of Kuhns.

Claim 26 depends from independent Claim 25. When the recitations of Claim 26 are considered in combination with the recitations of Claim 25, Applicant submits that dependent Claim 26 likewise is patentable over Walsh in view of Garber and further in view of Kuhns.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claims 25 and 26 under 35 U.S.C. § 103(a) be withdrawn.

The rejection of Claims 27 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Garber in view of Walsh, and further in view of Boom Coburn et al. (U.S. Pub. No. 2003/0173247) ("Boom Coburn") is respectfully traversed.

Garber and Walsh are described above.

Boom Coburn describes a substrate transport container. The substrate transport container includes a container and a cover. The container includes an open top portion and a closed bottom portion, each having a perimeter greater than the middle portion of the container. The cover further includes a carrier, which is used for transporting information pertaining to the substrate. The interior of the container includes insert members. The insert includes outer and inner guide rails, compound slanted guides, recessed buttons and catch knobs. The rails are open at the top to provide an easy guide when placing the substrate in the container. The rails then narrow, and along with the compound slanted guides, provide a design that securely holds the substrate in place. The insert is angled such that the outer rim of the substrate will only contact the insert. The insert and container are formed together through a two shot or over molding process. Notably, Boom Coburn does not describe or suggest that a single RF antenna can interrogate RFID tags on more than one shelf. As such, Boom Coburn does not overcome the deficiencies of Garber and/or Walsh.

Claims 27 and 28 depend from Claim 1. Claim 1 is recited above.

None of Garber, Walsh, nor Boom Coburn, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as

recited in Claim 1. Specifically, neither Garber, Walsh nor Boom Coburn describes or suggests a portable display stand having a single radio frequency antenna printed on a wall of the display stand and a radio frequency identification tag reader connected with the single antenna, wherein the tag reader is operably configured to interrogate any radio frequency identification tags located within the display area. Rather, in contrast to the present invention, Garber describes a portable cart that includes shelves that require an antenna be attached to each shelf to be able to interrogate articles only on that shelf; Walsh describes a display stand for use in point-of-purchase display including shelves formed from a front panel and supported and secured using a plastic hook affixed to the display stand with metal pop rivets or eyelets; and Boom Coburn describes a substrate transport container.

For reasons set forth above, Applicant respectfully submits that Claim 1 is patentable over Garber in view of Walsh and further in view of Boom Coburn.

When the recitations of Claims 27 and 28 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 27 and 28 likewise are patentable over Garber in view of Walsh and further in view of Boom Coburn.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claims 27 and 28 under 35 U.S.C. § 103(a) be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action are respectfully solicited.

Respectfully Submitted,



Daniel M. Fitzgerald
Registration No. 38,880
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070